

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL SHERMAN,

Plaintiff,

v.

JOHN BROWN INSURANCE AGENCY,  
INC., JOHN M. BROWN INSURANCE  
AGENCY, INC., JOHN M. BROWN, AND  
ARTURO CORONEL, JR.,

Defendants.

CIVIL ACTION

NO.

**NOTICE OF REMOVAL**

Defendants, John Brown Insurance Agency, Inc., John M. Brown Insurance Agency, Inc., John M. Brown and Arturo Coronel, Jr., pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby remove docket No. GD 13-019440 from the Court of Common Pleas of Allegheny County, Pennsylvania to the United States District Court for the Western District of Pennsylvania. And, as grounds for their removal, state as follows:

1. This civil action was commenced by plaintiff on October 11, 2013 by the filing of a praecipe for writ of summons. A copy of the praecipe for writ of summons is attached hereto as Exhibit A.
2. Defendants were served with the writ of summons in or around December 2013. Copies of the proofs of service filed by plaintiffs are attached hereto as Exhibit B.
3. On March 24, 2013, defendants filed a praecipe for a rule to file complaint and a rule to file a complaint was issued by the Court and served on plaintiff's counsel. A copy of the praecipe for rule to file a complaint is attached hereto as Exhibit C.

4. On April 12, 2014, plaintiff filed and served his complaint. A true and correct copy of plaintiff's complaint is attached hereto as Exhibit D.

5. On April 12, 2014, plaintiff also filed certificates of merit for each of the defendants. True and correct copies of the certificates of merit are attached hereto as Exhibit E.

6. On April 14, 2014, plaintiff filed and served amended exhibits to his complaint. A true and correct copy of the amended exhibits to the complaint is attached hereto as Exhibit F.

7. This notice of removal is being filed within thirty days of the filing and service of the initial pleading as required by 28 U.S.C. § 1446(b).

8. This Court has original jurisdiction over the subject matter of plaintiffs' complaint under 28 U.S.C. § 1332 because the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and there is complete diversity of citizenship between defendants and plaintiff.

**Diversity**

9. Plaintiff, Michael Sherman, is a citizen of the State of California. *See* Complaint at ¶ 1.

10. Defendants John Brown Insurance Agency, Inc. and John M. Brown Insurance Agency, Inc. are corporations organized under the laws of the State of Illinois with their principal places of business at 800 N. Clark Street, Suite 215, Chicago, Illinois. *See* Complaint at ¶ 2.

11. Defendants John M. Brown and Arturo Coronel are citizens of the State of Illinois. *See* Complaint at ¶ 4.

12. Defendants and plaintiff are citizens of different states.

**Jurisdictional Amount**

13. The claims alleged in the complaint arise out of an underlying personal injury action filed by Richard Frischolz, Jr., Individually and as Administrator of the Estate of Brett Frischolz, Deceased. *See* Complaint at ¶ 28.

14. Plaintiff contracted to perform renovations at a property located 94 Estella Avenue, Pittsburgh, PA. Complaint at ¶ 26; Exhibit C to Complaint.

15. According to the Complaint, Brett Frischolz, while assisting with the renovations to the Estella Avenue renovations, sustained catastrophic injuries and subsequent death as a result of a fall from a scaffold which plaintiff had substantially erected. *See* Complaint at ¶ 27.

16. Plaintiff alleges that in the underlying personal injury action, the decedent's estate contends plaintiff was negligent and that his negligence was a substantial cause in bringing about the injuries and death of Brett Frischolz. Complaint at ¶ 29.

17. The Estate of Brett Frischolz is seeking an amount in excess of \$250,000 from plaintiff. *See* Exhibit D to Complaint at ¶ 15.

18. Plaintiff, through defendants, obtained insurance for his operations from Preferred Contractors Insurance Company ("PCIC"). *See* Complaint at ¶¶ 12-25.

19. The PCIC policy has limits of liability in the amount of \$1,000,000 per occurrence and in the aggregate for bodily injury. *See* Complaint at Exhibit C.

20. Plaintiff's insurer, PCIC, contends its policy does not provide coverage for the claims alleged against plaintiff in the action by the Estate of Brett Frischolz and has filed a declaratory judgment action seeking a determination it has no duty to defend or indemnify plaintiff. *See* Exhibit D to Complaint.

21. The complaint in this action asserts claims against defendants for alleged negligence and breach of contract for failure to obtain appropriate and requested insurance coverage for plaintiff's operations as a general contractor. *See generally*, Complaint.
22. Plaintiff seeks to recover from defendants damages to extent there is a verdict against him in the underlying personal injury action which is not covered by the PCIC policy as well as expenses incurred in connection with his defense of the PCIC declaratory judgment action. *See generally*, Complaint.
23. Thus, the matter in controversy exceeds \$75,000.
24. Defendants certify that written notice of this Notice of Removal is being served on plaintiff and/or his counsel of record and that a copy of this notice of removal and all attachments are being filed with the Court of Common Pleas of Allegheny County, the court from which this action is being removed.

WHEREFORE, John Brown Insurance Agency, Inc., John M. Brown Insurance Agency, Inc., John M. Brown and Arturo Coronel, Jr., hereby remove this action from the Court of Common Pleas of Allegheny County to this Court.

/s/Michael E. Giblin  
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Attorneys for Defendants,  
John Brown Insurance Agency, Inc., John M.  
Brown Insurance Agency, Inc., John M. Brown and  
Arturo Coronel, Jr.

Dated: May 2, 2014

**CERTIFICATE OF SERVICE**

Michael Giblin certifies that the foregoing notice of removal was served on counsel listed below by first class, United States mail, postage pre-paid on May 2, 2014.

Louis Loughren, Esquire  
Heather M. Hamilton, Esquire  
Loughren Loughren & Loughren P.C.  
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/s/ Michael Giblin  
Michael Giblin